HIGH COURT OF CHHATTISGARH AT BILASPUR

Second Appeal No.87/2004

Single Bench: Hon'ble Shri Dilip Raosaheb Deshmukh, J.

APPELLANTS DEFENDANTS : 1. Duje Ram S/o Late Nanki Satnami, aged 67 years.

2. Sukanth @ Shrikant s/o Dujeram Satnami, aged 24 years.

3. Minor Dharam Singh S/o Dujeram, aged 17 years, through natural guardian mother Urmila W/o Duje Ram.

All by occupation cultivation, R/o Village Mudhwabhata, P.S. & Tehsil Sarangarh, District Raigarh (C.G.)

VERSUS

RESPONDENT PLAINTIFF : 1. Smt. Khik Bai D/o not known, aged 27 years, occupation house wife, resident of Mudhwabhata, At present residing at Hirri Thana and Tehsil Sarangarh District Raigarh (CG)

(Plaintiff)

2. Ghanshyam Singh, son of Late Shri Bhuvan Singh Thakur, aged about 80 years.

3. State of Chhattisgarh through the Collector, Raigarh (C.G.)

MEMORANDUM OF SECOND APPEAL UNDER SECTION 100 OF THE CODE OF CIVIL PRODECURE 1908

Present:-
Shri R.P.Tripathi, counsel for the appellants.
Shri H.S.Patel, counsel for the respondent No.1.
Shri Akhil Agrawal, P.L. for the State/respondent No. 3.

ORAL ORDER/JUDGMENT
(Passed on this 3rd day of May, 2007)

Heard learned counsel for the appellant on admission.

(2) I have perused the record of Civil Suit No.1-A/2001. I have also perused the judgment of the learned trial Court as also the First Appellate Court. Both the Courts below have, recorded a concurrent finding of fact

that Khik Bai, the respondent/plaintiff herein was the daughter of Tij Ram through Mundin Bai who was the wife of Tij Ram through *churied* form of marriage. Since both the Courts below have on proper appreciation of evidence, oral as well as documentary recorded a finding of fact that Khik Bai, the respondent/plaintiff herein was the daughter of Tij Ram through his *churied* wife Mundin Bai, and therefore, decreed the suit for declaration of ½ share in the suit property and for possession after partition thereof in favour of the respondent/plaintiff, I am of the considered opinion that no substantial question of law arises in this appeal.

(4) In the result, this second appeal being devoid of merit is dismissed at the stage of admission. There shall be no order as to costs.

(5) In view of above, M.(C.)P.No.241 of 2004 for stay as also I.A.No.2266 of 2006 which is an application for out of turn, early listing of the case stand disposed of.

Sd/-
DILIP RAOSAHEB DESHMUKH
Judge